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15 Counter-Plaintiffs and Counter-Defendants
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18 TRANSPORTATION CORRIDOR AGENCY

17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA

19 ASSOCIATED INDUSTRIES
20 INSURANCE COMPANY,

21 Plaintiff,

22 v.

23 FOOTHILL/EASTERN
24 TRANSPORTATION CORRIDOR
25 AGENCY and SAN JOAQUIN
26 HILLS TRANSPORTATION
27 CORRIDOR AGENCY,

28 Defendants.

Case No: 8:18-CV-01776 PSG (JDE)

**JUDGMENT AS TO THIRD-
PARTY DEFENDANT AND
COUNTER-PLAINTIFF ALLIED
WORLD NATIONAL ASSURANCE
COMPANY**

Action Filed: September 28, 2018

1 FOOTHILL/EASTERN
2 TRANSPORTATION CORRIDOR
3 AGENCY and SAN JOAQUIN
4 HILLS, TRANSPORTATION
5 CORRIDOR AGENCY

6 Counter-Plaintiffs,

7 v.

8 ASSOCIATED INDUSTRIES
9 INSURANCE COMPANY

10 Counter-Defendant.

11 FOOTHILL/EASTERN
12 TRANSPORTATION CORRIDOR
13 AGENCY and SAN JOAQUIN
14 HILLS TRANSPORTATION
15 CORRIDOR AGENCY,

16 Third-Party Plaintiffs,

17 v.

18 ALLIED WORLD NATIONAL
19 ASSURANCE COMPANY,

20 Third-Party Defendant.

21 ALLIED WORLD NATIONAL
22 ASSURANCE COMPANY,

23 Counter-Plaintiff,

24 v.

25 FOOTHILL/EASTERN
26 TRANSPORTATION CORRIDOR
27 AGENCY and SAN JOAQUIN
28 HILLS TRANSPORTATION
CORRIDOR AGENCY,

Counter-Defendants.

1 On February 13, 2023, the Court entered its “Order Granting [Partial]
 2 Summary Judgment to Associated, Granting [Partial] Summary Judgment to Allied
 3 World and Denying as Moot the TCA Defendants’ Motions to Dismiss” (Dkt. No.
 4 259) (“the February 13 Order”).

5 Pursuant to the February 13 Order, the Court granted third-party defendant
 6 and counter-plaintiff Allied World National Assurance Company (“Allied World”)
 7 summary judgment as to the Third Claim for Relief for declaratory judgment of no
 8 duty to indemnify in Allied World’s “Answer to Foothill/Eastern Transportation
 9 Corridor Agency and San Joaquin Hills Transportation Corridor Agency’s Third-
 10 Party Complaint and Amended Counterclaim” (Dkt. No. 192 [emphasis in
 11 original]) (“Amended Counterclaim”). In addition, the Court denied defendants,
 12 counter-plaintiffs, third-party plaintiffs, and counter-defendants Foothill/Eastern
 13 Transportation Corridor Agency and San Joaquin Hills Transportation Corridor
 14 Agency’s (collectively, “TCA”) “Notice of Motion and Partial Motion to Dismiss
 15 Allied World National Assurance Company’s Counterclaim” (Dkt. No. 196) (the
 16 “Motion to Dismiss”), and declined jurisdiction over Allied World’s remaining
 17 First, Second, and Fourth through Sixth Claims for Relief in its Amended
 18 Counterclaim, each of which were dismissed, in light of its February 13 Order
 19 granting Allied World summary judgment as to its Third Claim for Relief.

20 Following the February 13 Order, the claims for relief remaining between
 21 TCA and Allied World were (1) TCA’s First Claim for Relief in its Third Party
 22 Complaint (Dkt. No. 122) (the “TPC”) for declaratory relief regarding Allied
 23 World’s duty to defend; (2) TCA’s Second Claim for Relief in its TPC for Allied
 24 World’s breach of the duty to defend; (3) TCA’s Fifth Claim for Relief in its TPC
 25 for breach of the implied covenant of good faith and fair dealing; and (4) Allied
 26 World’s Seventh Claim for Relief for reimbursement (the “Remaining Claims”).
 27 The Court did not formally dismiss TCA’s Third Claim for Relief for declaratory
 28

1 relief regarding Allied World's duty to indemnify or Fourth Claim for Relief for
2 breach of the duty to indemnify.

3 Allied World, on the one hand, and TCA, on the other hand, entered into a
4 settlement agreement fully and finally resolving the Remaining Claims between
5 them, as well as any claim by TCA for breach of the implied covenant of good
6 faith and fair dealing with regard to Allied World's duty to indemnify TCA in
7 connection with the action entitled *Borsuk, et al. v. Foothill/Eastern*
8 *Transportation Corridor Agency, et al.*, Case No. 8:16-cv-00262 ODW (JCGx)
9 (C.D. Cal. 2016) (the "*Borsuk Action*").

10 Allied World, on the one hand, and TCA, on the other hand, further agreed
11 that TCA has the right to appeal the February 13 Order with regard to the Court's
12 entry of summary judgment on Allied World's Third Claim for Relief for
13 declaratory judgment of no duty to indemnify, and the parties' settlement did not
14 resolve that claim for relief, or TCA's affirmative claims for relief pertaining to
15 Allied World's duty to indemnify TCA in connection with the *Borsuk Action*
16 (other than TCA's Fifth Claim for Relief in its TPC for breach of the implied
17 covenant of good faith and fair dealing insofar as it addresses Allied World's duty
18 to indemnify TCA in connection with the *Borsuk Action*). As such, the parties
19 agree that the entry of Judgment does not prejudice, waive rights relating to, or in
20 any way affect any party's right to appeal the February 13 Order referenced above
21 with regard to the Court's entry of summary judgment for Allied World on its
22 Third Claim for Relief for declaratory judgment of no duty to indemnify.

23 Pursuant to their settlement, Allied World, on the one hand, and TCA, on the
24 other hand, entered into a stipulation dated January 9, 2024, dismissing the
25 Remaining Claims, with prejudice. In addition, Allied World and TCA agree that
26 the Court's February 13 Order constitutes an adjudication of TCA's Third Claim
27 for Relief for declaratory relief regarding Allied World's duty to indemnify and
28 Fourth Claim for Relief for breach of the duty to indemnify, in favor of Allied

World. As a result, following the February 13 Order and the parties' stipulation of dismissal, all claims for relief remaining between Allied World and TCA have been adjudicated or dismissed.

Based upon the foregoing ruling and stipulation, and good cause appearing therefor,

IT IS HEREBY ADJUDICATED, ORDERED, AND DECREED that:

1. Judgment should be entered in favor of third-party defendant and counter-plaintiff Allied World National Assurance Company ("Allied World") and against defendants, counter-plaintiffs, third-party plaintiffs, and third-party counter-defendants Foothill/Eastern Transportation Corridor Agency and San Joaquin Hills Transportation Corridor Agency (collectively, "TCA") on Allied World's Third Claim for Relief for declaratory judgment of no duty to indemnify in Allied World's "Answer to Foothill/Eastern Transportation Corridor Agency and San Joaquin Hills Transportation Corridor Agency's Third-Party Complaint and Amended Counterclaim" (Dkt. No. 192 [emphasis in original]), and TCA's Third Claim for Relief for declaratory relief regarding Allied World's duty to indemnify and Fourth Claim for Relief for breach of the duty to indemnify in TCA's Third Party Complaint (Dkt. No. 122), in accordance with the February 13, 2023 Order referenced above.

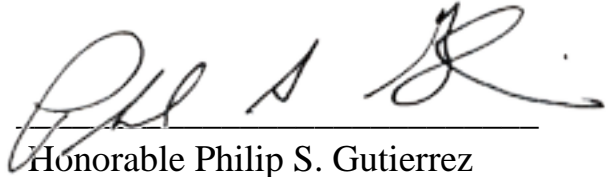
2. The Court finds, pursuant to Rules 54(a) and (b) of the Federal Rules of Civil Procedure, that this Final Judgment should be entered and further finds that there is no just reason for delay in the entry of this Judgment, as a Final Judgment, as to the above-identified parties. Accordingly, the Clerk is hereby directed to enter Judgment forthwith.

3. The entry of Judgment does not prejudice, waive rights relating to, or in any way affect any party's right to appeal the February 13, 2023 Order referenced above with regard to the Court's entry of summary judgment on Allied World's Third Claim for Relief for declaratory judgment of no duty to indemnify

1 or of TCA's Third Claim for Relief for declaratory relief regarding Allied World's
2 duty to indemnify and Fourth Claim for Relief for breach of the duty to indemnify.

3 4. Each of the above-identified parties will bear its own attorneys' fees
4 and costs incurred to date.

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6
7 Dated: January 11, 2024



Honorable Philip S. Gutierrez

United States District Court